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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/075,858	02/13/2002	Carlo Desinano	1011-376	9431

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EXAMINER

COOLEY, CHARLES E

ART UNIT	PAPER NUMBER
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1723

DATE MAILED: 09/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/075,858

Applicant(s)

DESINANO, CARLO

Examiner

Charles E. Cooley

Art Unit

1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Specification

2. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

3. The Abstract of the Disclosure is objected to because:

- a. the inclusion of legal phraseology such as "means" and "said" in the abstract is improper.

- b. The abstract is worded in an awkward manner – see the rejection of claim 1 under 35 USC 112, second paragraph.

Correction is required. See MPEP § 608.01(b).

4. The title is acceptable.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The relationship between the elements recited in the dependent claims and the various "means" in claim 1 is vague. For example, (a) are the tooth and bracket of claim 2 related to any of the means of claim 1?; (b) are the guides of claim 3 in any way related to any of the means of claim 1? ; etc.

Claim 1, line 5: "mans" should be --means--; in line 6, "the stirring cover" lacks antecedent basis; in line 7, "a bottom portion" of what element is being referred to?; in line 9, "all the provided driven elements" lacks antecedent basis.

Claim 1 is vague and incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. The structural cooperative relationship among the various means and the other recited elements is unclear.

Claim 2, line 6: "the top construction" lacks antecedent basis.

Claim 3, line 7: does the "bottom conic portion" have any relationship to the "bottom portion" of claim 1?

Claim 5, line 3: does the "tooth element" have any relationship to the "tooth element" of claim 3?

Claim 6, line 3: "the shaft" lacks antecedent basis; in line 9, replace "vessel paints" with --paint vessels--.

Claim 8, line 3: does the stirring shaft have nay relationship to the supporting element of claim 1?

Claim 10, line 4: delete "stirring" before "horn element".

Claim 11, line 7: "said two tooth elements" lacks antecedent basis.

Claim 12, line 3: "said stirring device" lacks antecedent basis.

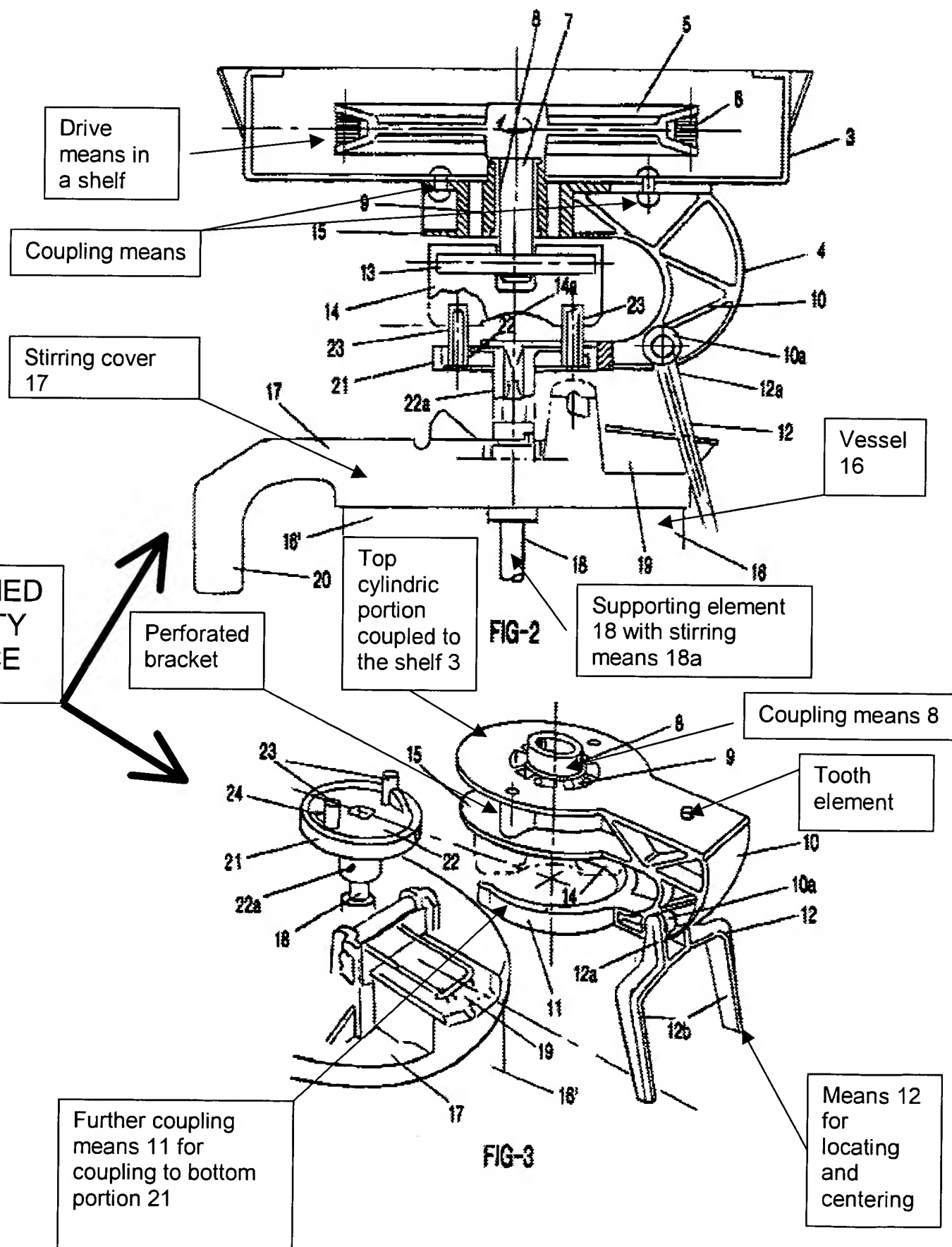
Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Lesimple (US 5,800,057) as outlined below:



9. Accordingly, as outlined above, the patent to Lesimple discloses the recited elements of the claimed safety device subcombination in a shelved stirring paint vessel environment including top portion 9 having coupling means 8 and coupling means identified in Fig. 2 for coupling the top portion to shelf 3 having drive means 6 therein; means 12 for locating and centering the stirring cover 17; further coupling means 11 for coupling to a bottom portion 21; the top portion having a cylindric portion identified in Fig. 3 having an upper part with a tooth element identified in Fig. 3; a perforated bracket identified in Fig. 3 for attaching the top portion to the shelf.

Allowable Subject Matter

10. Claims 3-12 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles E. Cooley whose telephone number is (703) 308-0112. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker can be reached on (703) 308-0457. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

A handwritten signature in black ink, appearing to read "Charles E. Cooley", with a stylized flourish at the end.

Charles E. Cooley
Primary Examiner
Art Unit 1723

2 September 2003